

## CHAPTER 345

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**CRIMINAL LAW AND PROCEDURE**


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**HOUSE BILL 14-1260**

BY REPRESENTATIVE(S) Foote, Buckner, Conti, Court, Duran, Exum, Fields, Fischer, Garcia, Gardner, Ginal, Hamner, Hullinghorst, Kagan, Kraft-Tharp, Labuda, Lee, May, McCann, Melton, Mitsch Bush, Pabon, Pettersen, Primavera, Priola, Rosenthal, Salazar, Schafer, Swalm, Tyler, Vigil, Williams, Young, Ferrandino, Becker, McLachlan, Peniston, Ryden, Singer; also SENATOR(S) Johnston, Baumgardner, Crowder, Heath, Herpin, Hodge, Jones, Kefalas, Kerr, King, Lambert, Newell, Nicholson, Rivera, Roberts, Schwartz, Tochtrop, Todd, Ulibarri, Zenzinger, Carroll.

**AN ACT**

**CONCERNING THE CREATION OF THREE MANDATORY MINIMUM PRESUMPTIVE RANGES FOR DEFENDANTS CONVICTED OF A FELONY SEX OFFENSE INVOLVING INTRUSION AGAINST A CHILD WHO IS UNDER TWELVE YEARS OF AGE WHEN THE ADULT DEFENDANT IS AT LEAST TEN YEARS OLDER THAT HAS ONE OF THE RANGES STARTING AT TEN YEARS AS THE MINIMUM IN THE RANGE, AND, IN CONNECTION THEREWITH, CREATING AN INDETERMINATE LIFETIME SENTENCE WITH A MANDATORY MINIMUM PRESUMPTIVE RANGE OF TEN TO SIXTEEN YEARS FOR A CLASS 4 FELONY; A MANDATORY MINIMUM PRESUMPTIVE RANGE OF EIGHTEEN TO THIRTY-TWO YEARS FOR A CLASS 3 FELONY; AND A MANDATORY MINIMUM PRESUMPTIVE RANGE OF TWENTY-FOUR TO FORTY-EIGHT YEARS FOR A CLASS 2 FELONY.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The General Assembly hereby finds and declares that:

(a) More than forty states in the United States have passed laws that are similar to Florida's House Bill 2005-1877, the Jessica Lunsford Act, which is commonly referred to as "Jessica's Law";

(b) When the Colorado General Assembly adopts House Bill 14-1260 and it becomes law, it will make Colorado one of the states that have adopted a law that is similar to "Jessica's Law".

**SECTION 2.** In Colorado Revised Statutes, 18-1.3-1004, **amend** (2) (a); and **add** (1) (e) as follows:

**18-1.3-1004. Indeterminate sentence.** (1) (e) (I) NOTWITHSTANDING ANY

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

OTHER PROVISION OF LAW, THE DISTRICT COURT SHALL SENTENCE A SEX OFFENDER TO THE CUSTODY OF THE DEPARTMENT FOR AN INDETERMINATE TERM AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (e) IF THE SEX OFFENDER:

(A) COMMITTED A CLASS 2, CLASS 3, OR CLASS 4 SEX OFFENSE IN VIOLATION OF SECTION 18-3-402, 18-3-405, OR 18-3-405.3 WHEN THE ACT INCLUDES SEXUAL INTRUSION AS DEFINED IN SECTION 18-3-401 (5) OR SEXUAL PENETRATION AS DEFINED IN SECTION 18-3-401 (6);

(B) COMMITTED THE ACT AGAINST A CHILD WHO WAS UNDER TWELVE YEARS OF AGE AT THE TIME OF THE OFFENSE; AND

(C) WAS AT LEAST EIGHTEEN YEARS OF AGE AND AT LEAST TEN YEARS OLDER THAN THE CHILD.

(II) THE DISTRICT COURT SHALL SENTENCE A SEX OFFENDER TO THE DEPARTMENT OF CORRECTIONS FOR AN INDETERMINATE TERM OF INCARCERATION OF:

(A) AT LEAST TEN TO SIXTEEN YEARS FOR A CLASS 4 FELONY TO A MAXIMUM OF THE PERSON'S NATURAL LIFE, AS PROVIDED IN THIS SUBSECTION (1), IF HE OR SHE COMMITTED A CRIME AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e);

(B) AT LEAST EIGHTEEN TO THIRTY-TWO YEARS FOR A CLASS 3 FELONY TO A MAXIMUM OF THE PERSON'S NATURAL LIFE, AS PROVIDED IN THIS SUBSECTION (1), IF HE OR SHE COMMITTED A CRIME AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e); AND

(C) AT LEAST TWENTY-FOUR TO FORTY-EIGHT YEARS FOR A CLASS 2 FELONY, TO A MAXIMUM OF THE PERSON'S NATURAL LIFE, AS PROVIDED IN THIS SUBSECTION (1), IF HE OR SHE COMMITTED A CRIME AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e).

(III) IF THE DEFENDANT IS PLACED ON PAROLE, THE PAROLE BOARD SHALL ORDER THE DEFENDANT TO WEAR ELECTRONIC MONITORING FOR THE DURATION OF HIS OR HER PERIOD OF PAROLE.

(2) (a) The district court having jurisdiction, based on consideration of the evaluation conducted pursuant to section 16-11.7-104, C.R.S., and the factors specified in section 18-1.3-203, may sentence a sex offender to probation for an indeterminate period of at least ten years for a class 4 felony or twenty years for a class 2 or 3 felony and a maximum of the sex offender's natural life; except that, if the sex offender committed a sex offense that constitutes a crime of violence, as defined in section 18-1.3-406, or committed a sex offense that makes him or her eligible for sentencing as a habitual sex offender against children pursuant to section 18-3-412, OR A SEX OFFENSE REQUIRING SENTENCING PURSUANT TO PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION, the court shall sentence the sex offender to the department of corrections as provided in subsection (1) of this section. For any sex offender sentenced to probation pursuant to this subsection (2), the court shall order that the sex offender, as a condition of probation, participate in an intensive supervision probation program established pursuant to section 18-1.3-1007, until further order of the court.

**SECTION 3. Effective date - applicability.** This act takes effect July 1, 2014, and applies to offenses committed on or after said date.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2014